IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26376 of 2007(M)

AGAINST THE ORDER IN EP 66/2004 IN OS.33/2002 of SUB COURT,THODUPUZHA

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PETITIONERS:

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1. K.B.DEVARAJAN,
S/O.BHASKARAN, KADAMBUKANDATHIL HOUSE,
D.V.SALA, POTTANKADU P.O., DVIKULAM TALUK,
IDUKKI (DT.).

2. K.B.REJIMON,
S/O.BHASKARAN, KADAMBUKANDATHIL HOUSE,
D.V.SALA, POTTANKADU P.O.,
DEVIKULAM TALUK, IDUKKI (DT.).

BY ADV. SRI.RAJU JOSEPH

RESPONDENTS:

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1. THE FEDERAL BANK LTD.,
REPRESENTED BY ITS MANAGER,
KUNCHITHANNI BRANCH, IDUKKI (DT.).

2. THE SUB COURT,
THODUPUZHA.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.26376 OF 2007

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Dated this the 5th day of September 2007

JUDGMENT

This writ petition is filed for a direction to the Sub Court, Thodupuzha not to sell the building described in Ext.P2 sale proclamation. This is the second time where the writ petitioners are approaching this court. On an earlier occasion, an objection was raised that the property is worth more than a crore rupees and it has not been taken into consideration by the court below. This court gave writ petitioners an opportunity to pay off the liability by directing them to deposit 40% of the decree amount on or before 15.3.2007. This court also directed that as per the proviso to Order XXI Rule 66 of the C.P.C. the amount claimed by the judgment debtors as value of the property also should be shown in the sale proclamation. Unfortunately writ petitioners did not pay the amount and later proclamation incorporating the value as shown by them is also included and I am informed that the matter has been posted for sale on 10.9.2007. Learned counsel would submit that it is a shop building and if it is sold, it will cause lot of hardship to them and therefore some leniency may be shown in the mater and if possible a portion of the property may be allowed

to be sold. The sale of a portion of the property had not been raised at any stage and therefore I do not want to entertain that plea. In order to enable the writ petitioners to wipe off the liability and if possible for one time settlement, I direct the court below to defer the sale posted to 10.9.2007 by 6 weeks. If the matter is not settled or liability is not wiped off, the court below is directed to proceed with the sale. I make it clear that the writ petitioners are not entitled to have any fresh sale proclamation because the sale is adjourned at their instance.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-